



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Jacob K. Javits Federal Building
26 Federal Plaza, 37th Floor
New York, New York 10278*

February 24, 2025

BY ECF

The Honorable Sidney H. Stein
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

**Re: *United States v. Nadine Menendez,*
S4 23 Cr. 490 (SHS)**

Dear Judge Stein:

The Government respectfully writes in the above-captioned matter following the February 19, 2025 conference to advise the Court of the status of its attempts to reach agreement regarding stipulations or the effective equivalent with the defendant that might streamline the forthcoming trial.

As the Court is aware, at the conference, counsel for the defendant stated that he did not intend to object to the admission of many of the documents to be introduced in connection with the testimony of the Government's principal summary witnesses. (*See* Tr., Feb. 19, 2025 ("Conf. Tr.") at 13-16.) Since the conference, the Government attempted to, as the Court endorsed, "assure itself that there will be no lacuna in [such an] agreement sufficient to permit an issue to be raised on appeal." (*Id.* at 24.) However, counsel for the defendant has purported to preserve his client's ability to do just that, and has pointedly refused to deny his intention to leave just such a "lacuna," as reflected in the email correspondence which the Government attaches as Exhibit A in order to dispel any confusion created by the defendant's counsel's remarks at the conference.¹

Although the Government doubts that the defendant's apparent attempt to introduce ambiguity into her "considered decision *not* to object to" the referenced exhibits is truly sufficient

¹ The defendant also attached this email correspondence to her response, submitted under seal today, to the Government's supplemental motions *in limine*, despite it not being germane to any of those motions. The Government includes it here as Exhibit A for the convenience of the Court.

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to preserve an issue for appeal or subsequent challenge, *United States v. Bodnar*, 37 F.4th 833, 844 (2d Cir. 2022) (emphasis in original), the Government cannot rely on this record. Indeed, the defendant's response to the Government's supplemental motions *in limine* suggests that she views the request that she make any concession that might have appellate or other post-conviction consequence as in some way an unacceptable form of practice. (See Def. Mem. Opp. Supp. Mots. *in Limine*, dated Feb. 24, 2025, at 17-18.) While she is of course entitled to her view, however misguided, such a position poses an obvious obstacle to reaching any sort of agreement that might avoid the need to present evidence. The Government is also concerned that the defendant's position gives insufficient assurance that she would not suggest during the trial itself that the materials to which she has not objected, but for which only a limited, at most, foundation was laid in light of her non-objection, should be viewed less persuasively by the jury.

Accordingly, unless the defendant reconsiders her approach and decides to sign stipulations in the familiar form that is widely acceptable to litigants in this district and consistent with the law (and which defense counsel in this case has entered into in other federal criminal cases), the Government will introduce the foundational testimony that would be necessary in the absence of any agreement, which the Government will endeavor to do in as streamlined a fashion as possible.²

Respectfully submitted,

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Enclosure

cc: (by ECF)

Counsel of Record

² Some, but not all, of the documents can be self-authenticated or are subject to judicial notice, as is the subject of the Government's pending motions *in limine* (Dkts. 715, 747, 755).